

Message Text

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ACTION IO-14

INFO OCT-02 NEA-10 ISO-00 CIAE-00 DODE-00 PM-05 H-01
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FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 8996
INFO USMISSION USUN NEW YORK
USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 NEW DELHI 1370

E.O. 11652: GDS
TAGS: SHUM, IN
SUBJECT: GOI VIEWS ON HUMAN RIGHTS COMMISSION MEETING

REF: STATE 15786

1. ACCORDING TO ARUNDHATI GHOSH, MEA UN DIRECTOR, THE GOI CONSIDERS THE UPCOMING HUMAN RIGHTS COMMISSION MEETING EXCEPTIONALLY IMPORTANT BECAUSE IT WILL BE THE FIRST MEETING SINCE COMING TO POWER OF THE JANATA GOVERNMENT, WHICH RAN LARGELY ON A HUMAN RIGHTS PLATFORM. THE INDIAN DELEGATION WILL BE LED BY MRS. VIJAYALAKSHMI PANDIT, FORMER AMBASSADOR TO THE SOVIET UNION, THE UNITED STATES, THE UK, AND PRESIDENT OF THE UNGA, WHO IS THE SISTER OF THE LATE JAWAHARLAL NEHRU AND THE AUNT OF FORMER PRIME MINISTER INDIRA GANDHI. BECAUSE OF THE IMPORTANCE HE ATTACHED TO HUMAN RIGHTS, PRIME MINISTER DESAI HAS GIVEN MRS. PANDIT CABINET RANK FOR THE TENURE OF HER APPOINTMENT. OTHER MEMBERS OF THE DELEGATION ARE MR. GDODHI OF THE INDIAN MISSION IN GENEVA AND MRS. SIBAL, INDIAN REPRESENTATIVE TO THE THIRD COMMITTEE IN NEW YORK.

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2. GHOSH TOLD AN EMBOFF JANUARY 25 THAT THE GOI ALSO WANTS THE MEETING TO PRODUCE CONCRETE RESULTS AND SHE ESPECIALLY WELCOMED THE OFFER OF CONSULTATIONS BECAUSE INDIA IS CONSIDERING AN INITIATIVE TO OVERCOME WHAT IT CONSIDERS TO BE THE STERILE DEBATE ON HUMAN RIGHTS IN UN FORA.

THE MEA IS CURRENTLY PONDERING A PROPOSAL THAT THE HUMAN RIGHTS COMMITTEE PASS A DETAILED RESOLUTION FOR STRENGTHENING THE NATIONAL MACHINERY FOR THE PROTECTION OF HUMAN RIGHTS OF THE INDIVIDUAL, WITHIN THE STANDARDS SET BY THE DECLARATION OF HUMAN RIGHTS AND THE TWO COVENANTS. THE RATIONALE FOR THE INDIAN PROPOSAL IS THAT THE GOI CONSIDERS THAT THE ROLE OF THE UN IS TO PROMOTE HUMAN RIGHTS BUT THAT ANY HOPE OF EFFECTIVELY PROTECTING INDIVIDUAL RIGHTS LIES IN DEVELOPING NATIONAL MECHANISMS. INDIA STILL OPPOSES THE IDEA OF A HIGH COMMISSIONER BECAUSE THE CONCEPT CARRIES WITH IT THE IMPLICATIONS OF INTERFERENCE IN THE INTERNAL AFFAIRS OF SOVEREIGN STATES. MISS GHOSE THOUGHT THAT A RESOLUTION ON NATIONAL MACHINERY WOULD OVERCOME THE SUSPICIONS OF MANY STATES THAT UN ADVOCACY OF HUMAN RIGHTS THREATENED THE SOVEREIGNTY OF NATIONS WHILE AT THE SAME TIME THE RESOLUTION WOULD PROMOTE THE PROTECTION OF HUMAN RIGHTS AND THEREBY STRENGTHEN THE FORCES DEDICATED TO HUMAN RIGHTS WITHIN INDIVIDUAL COUNTRIES.

3. THE MEA IS THINKING IN TERMS OF A PROPOSAL WHICH WOULD SPELL OUT THE NEED FOR SUCH MACHINERY TO BE INDEPENDENT OF THE EXECUTIVE; IT MIGHT BE RESPONSIBLE TO A PARLIAMENT BUT NOT SUBORDINATE
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TO IT. AT PRESENT THE INDIANS ARE THINKING ALONG THE LINES OF AN OMSBUDSMAN (OR LOK PAL IN INDIAN TERMINOLOGY) WHO WOULD HAVE THE CAPACITY TO INVESTIGATE COMPLAINTS OF THE INDIVIDUAL NOT ONLY AT THE NATIONAL LEVEL BUT ALSO AT STATE AND LOCAL LEVELS. THE INDIANS THINK THAT THE RESOLUTION MIGHT ASK STATES TO INFORM THE COMMISSION OF THE ESTABLISHMENT OF THE RECOMMENDED NATIONAL MACHINERY BUT REPORTING WOULD BE VOLUNTARY, NOT MANDATORY.

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C O N F I D E N T I A L SECTION 2 OF 2 NEW DELHI 1370

4. THE MEA HAS NOT YET DRAWN UP A WORKING DRAFT AND DOES NOT INTEND TO DO SO UNTIL IT HAS CONSULTED WIDELY WITH OTHERS. IF THERE IS WIDESPREAD RESISTANCE, INDIA WILL NOT PUSH ITS PROPOSAL. IT ALSO WANTS CONSULTATIONS BECAUSE IT IS AWARE THAT THERE MAY BE CONSTITUTIONAL PROBLEMS FOR A NUMBER OF COUNTRIES IN SUPPORTING THE IDEA OF AN INDEPENDENT NATIONAL MECHANISM TO MONITOR AND PROTECT HUMAN RIGHTS AND THEREFORE WOULD LIKE TO SEE DEVELOPED A CONCRETE PROPOSAL THAT WOULD HAVE THE WIDEST ACCEPTANCE. INDIA WILL BE CONSULTING PRINCIPALLY WITHIN THE NON-ALIGNED, AND MISS GHOSE THOUGHT THAT IF SUCH NAM LEADRS AS ALGERIA, CUBA AND YUGO-SLAVIA WOULD SUPPORT THE PROPOSAL, IT WOULD HAVE A CHANCE OF SUCCEEDING. THE MEA WOULD ALSO LIKE TO CONSULT WITH THE US ON ITS PROPOSAL AND WOULD WELCOME AN APPRAISAL OF ITS IDEA AND SUGGESTIONS FOR DEVELOPING IT FURTHER. MRS. SIBAL COMPLETED CONSULTATIONS IN DELHI JANUARY 24 AND RETURNED TO NEW YORK UNDER INSTRUCTIONS TO CONSULT AS WIDELY AS POSSIBLE WITH MISSIONS THERE.

5. GHOSE ALSO SAID THAT INDIA WOULD INTRODUCE A
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PROPOSAL THAT PROVISIONAL AGENDA ITEM 10 ON THE HUMAN RIGHTS OF THOSE IN DETENTION AND IN PRISON BE AMENDED TO CLEARLY INCLUDE THE QUESTION OF PROTECTION FROM TORTURE. EMBOFF SAID THAT IT WOULD APPEAR FROM DEPARTMENT INSTRUCTIONS (REFTEL, PARA 3(F) THAT WE WERE IN AGREEMENT THAT THE PROBLEM OF TORTURE WAS AN ASPECT OF PROTECTING THE RIGHTS OF DETAINEES. HER ONLY OTHER COMMENT ON THE AGENDA WAS THAT THE MEA DID NOT UNDERSTAND WHAT ITEM 23 MEANT ("QUESTION OF MEASURES TO BE TAKEN AGAINST IDOLOGIES AND PRACTICES BASED ON TERROR OR ON INCITEMENT TO RACIAL DISCRIMINATION

OR ANY OTHER FORM OF GROUP HATRED.")

6. GHOSE NOTED IN CONCLUSION THAT THE INDIAN
EMBASSY WASHINGTON HAS INFORMED THE DEPARTMENT
OF THE CANDIDACY OF DR. L.M. SINGHVI FOR THE
SUBCOMMISSIN ON THE PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES.

7. DEPARTMENT PLEASE PASS AS APPROPRIATE.
GOHEEN

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